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May 19, 2021

Filed via cm/ECF

The Honorable Timothy S. Hillman
United States District Court - District of Massachusetts - Worcester
595 Main Street
Worcester, MA 01608

Re: KPM Analytics North America Corporation v. Blue Sun Scientific, LLC et al,
Civil Action No. 4:21-cv-10572-TSH

Dear Judge Hillman:

Following yesterday's Hearing, this morning plaintiff KPM Analytics ("KPM") received the attached information that directly bears on the merits of KPM's claims against corporate defendants Blue Sun/ITG and individual defendants Arnold Eilert and Michelle Gajewski. KPM asks the Court to consider it in ruling on KPM's Emergency Motion for Expedited Discovery.

As shown in the attached email string, Disney and its Disney's Animals, Science and Environment group ("Disney") has been a KPM customer for several years. Michelle Gajewski (working at KPM) managed the account. (8/12/19 emails.) In August 2020, Disney contacted KPM, and specifically Ms. Gajewski and Arnold Eilert, for maintenance service and a renewal contract by KPM for Disney's KPM near infra-red analyzer. (7/16/20 email.) Mr. Eilert and Mrs. Gajewski arranged for Mr. Eilert to travel to Disney to perform the servicing, which was delayed for COVID pandemic reasons until at least October 2020. (7/17/20 – 10/12/20.)

Last week, on May 13, 2021, Disney again contacted KPM for annual service and renewal by again reaching out to Mrs. Gajewski and Mr. Eilert at KPM. (5/13/21 email.) This time, however, the customer asked if KPM, Ms. Gajewski and Mr. Eilert were "still blue sun scientific". (*Id.*) Upon speaking with Disney personnel, KPM learned that Disney:

was working with Michelle [Gajewski] last year on a service contract and that they agreed to a price and then an email showed up with an invoice for \$3000 PM [preventative maintenance] to Blue Sun. [Disney] asked if this was [KPM's] new name and they basically said it was. She said she has the email trail. They paid the invoice and Arnold [Eilert] came out to do the service in Nov[ember 2020].

(5/19/21 email.)

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Arnold Eilert did not end his employment with KPM until December 31, 2020 and KPM terminated Ms. Gajewski on April 5, 2021. (Verified Complaint paras. 32, 38.) Therefore, this evidence further shows two individual defendants, while still employed by KPM: actively diverting KPM's business to Blue Sun/ITG, performing services on KPM's products using KPM's trade secret resources but representing themselves to be working for Blue Sun/ITG, thereby confusing the customer Disney, and then signing Disney to a "renewal" contract for Blue Sun/ITG and taking money that Disney thought it was paying to KPM.

At yesterday's Hearing, Defendants through their counsel opposed the motion to expedite discovery, in part, on the alleged basis that the Defendants have not engaged in misconduct. This new information from a customer about Mrs. Gajewski's, Mr. Eilert's and Blue Sun/ITG's active and concerted involvement in competing unlawfully strongly suggests that the Defendants' representations to the Court were inaccurate, whether from failure to investigate KPM's allegations or otherwise.

KPM renews its request that the Court grant its Emergency Motion for Expedited Discovery to allow KPM to uncover all similar conduct by the Defendants in support of its Motion for a Preliminary Injunction.

Respectfully submitted,

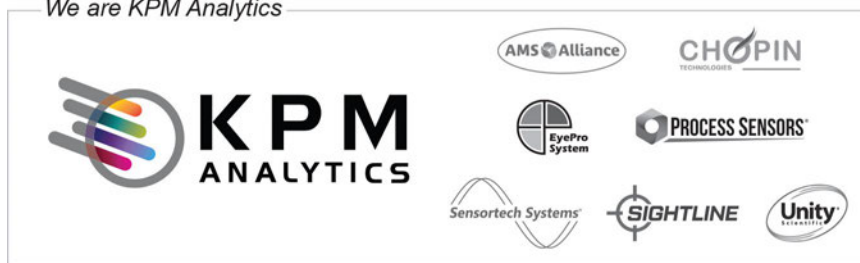
/John T. Gutkoski/

John T. Gutkoski

Cc: Counsel of Record (via cm/ECF)

[REDACTED - Forwarding communication to Counsel].

We are KPM Analytics



From: Dan Evans <dan.evans@kpmanalytics.com>

Sent: Wednesday, May 19, 2021 9:02 AM

To: Sam Burgos <sburgos@kpmanalytics.com>

Cc: Yuegang Zhao <yzhao@kpmanalytics.com>; Mike Smith <msmith@kpmanalytics.com>

Subject: RE: Spectrastar PM quote

Hi All,

I just spoke to Katie from Disney. It was a lot to unpack.

She said she was working with Michelle last year on the service contract and that they agreed to a price and then an email showed up with an invoice for \$3000 PM to Blue Sun. She said she asked if this was our new name and they basically said it was. She said she has the email trail. They paid the invoice and Arnold came out to do the service in Nov.

She said that when she spoke to Barbara, she mentioned the lawsuit, and so her and her colleagues looked it up. They have sent the issue to the Disney lawyers and ethics board for review. She is not sure what the outcome will be.

She said she would be happy to do a PM contract with us but would prefer to have someone with high experience. I admitted to her that we have a gap right now but by the time she needs her service in Q4, we would have someone trained up. She said if we can match the \$3000 and send her a new contract, she will put it through once it passes the ethics review. She needs to pay it by end of August due to funding. She had budgeted \$3000 because that is what she paid last year to Blue Sun.

This was my 3rd unit sold when I first started. Katie has been a good customer a long time.

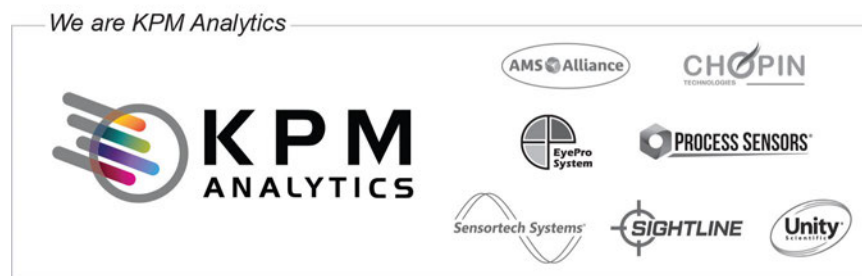
That is the summary of the call. She was very willing to work with us and said she has no intention to reach out to Blue Sun due to the Ethics involved.

If you have any questions, please let me know. Thanks!
Dan

Dan Evans

Sales Director - APAC

Mobile: +60 12 670 4155 (New Malaysia Number)



From: Dan Evans <dan.evans@kpmanalytics.com>

Sent: Thursday, May 13, 2021 7:22 AM

To: Sam Burgos <sburgos@kpmanalytics.com>

Cc: Yuegang Zhao <yzhao@kpmanalytics.com>; Mike Smith <msmith@kpmanalytics.com>

Subject: Re: Spectrastar PM quote

Thanks, Sam! Email sent.

Dan

Sent from my mobile device. Apologies for any errors or typos.

From: Sam Burgos <sburgos@kpmanalytics.com>
Sent: Thursday, May 13, 2021 7:13:55 AM
To: Dan Evans <dan.evans@kpmanalytics.com>
Cc: Yuegang Zhao <yzhao@kpmanalytics.com>; Mike Smith <msmith@kpmanalytics.com>
Subject: Re: Spectrastar PM quote

Hello Dan,
Barbara already talked to her earlier today, if you can please send her an email, she asked about you.
Regards,

Sam Burgos

On May 12, 2021, at 18:59, Dan Evans <dan.evans@kpmanalytics.com> wrote:

Hi All,

Below is our customer from Disney. She is asking for service from Blue Sun. It looks like Michelle and Arnold were selling her service behind our back. Can someone please reach out and see if we can help her?

Dan

Sent from my mobile device. Apologies for any errors or typos.

From: Sullivan, Kathleen E. <Kathleen.E.Sullivan@disney.com>
Sent: Thursday, May 13, 2021 4:31:47 AM
To: Arnold Eilert <aeilert@kpmanalytics.com>; Michelle Gajewski <mgajewski@kpmanalytics.com>; Dan Evans <dan.evans@kpmanalytics.com>
Subject: Spectrastar PM quote

Hello all!

I hope this finds you well! Can we please request our quote for the usual warranty with you guys? Are you still blue sun scientific?

Thanks!
~Katie

Kathleen Sullivan M.S., Ph.D.
Nutrition Lab Specialist - Disney's Animals, Science and Environment
Work: 407-938-2489; Kathleen.E.Sullivan@disney.com

From: Arnold Eilert <aeilert@kpmanalytics.com>
Sent: Monday, October 12, 2020 12:14 AM
To: Sullivan, Kathleen E. <Kathleen.E.Sullivan@disney.com>; Michelle Gajewski <mgajewski@kpmanalytics.com>; Dan Evans <dan.evans@kpmanalytics.com>
Subject: RE: Checking in

Hello Katie,

I don't have final approval but very likely I can do the PM visit on the morning of the 21st of October. I'd like to shoot for arrival at around 9:00 or perhaps 9:30 am on that day if that is OK.

Thanks,

Arnold Eilert, Ph.D.

Technical Application Specialist

Office: +1 847.487.4237

Mobile: +1 847.757.8510



From: Sullivan, Kathleen E. <Kathleen.E.Sullivan@disney.com>

Sent: Sunday, October 11, 2020 6:58 AM

To: Arnold Eilert <aeilert@kpmanalytics.com>; Michelle Gajewski <mgajewski@kpmanalytics.com>; Dan Evans <dan.evans@kpmanalytics.com>

Subject: Re: Checking in

Hi Arnold!

I just realized I had not gotten back to you. Would it be possible to do either the 21st or maybe the first or second week of November if it's too late for the 21st to get booked? Thanks for your patience and flexibility. These are odd times!

Hope you are well!

Katie

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From: Arnold Eilert <aeilert@kpmanalytics.com>

Sent: Monday, October 5, 2020 3:53:15 PM

To: Sullivan, Kathleen E. <Kathleen.E.Sullivan@disney.com>; Michelle Gajewski <mgajewski@kpmanalytics.com>; Dan Evans <dan.evans@kpmanalytics.com>

Subject: RE: Checking in

OK Thanks for getting back to me Katie.

Just let me know as soon as you are able to pin down a date that works for you (such as Oct 21, which would work for me) and I will make my plans accordingly.

Thanks,

Arnold Eilert, Ph.D.

Technical Application Specialist

Office: +1 847.487.4237

Mobile: +1 847.757.8510



From: Sullivan, Kathleen E. <Kathleen.E.Sullivan@disney.com>
Sent: Monday, October 5, 2020 2:41 PM
To: Arnold Eilert <aeilert@kpmanalytics.com>; Michelle Gajewski <mgajewski@kpmanalytics.com>; Dan Evans <dan.evans@kpmanalytics.com>
Subject: RE: Checking in

Hi Arnold,

Thanks much. I just need to double check with my leader Eduardo, as I know he is scheduling some zoom interviews for our post-doc around this time. I would lean towards the 21st barring him saying we are booked in the next day or so.

Cheers,
Katie

Kathleen Sullivan M.S., Ph.D.
Nutrition Lab Specialist - Disney's Animals, Science and Environment
Work: 407-938-2489; Kathleen.E.Sullivan@disney.com

From: Arnold Eilert <aeilert@kpmanalytics.com>
Sent: Friday, October 02, 2020 11:34 AM
To: Sullivan, Kathleen E. <Kathleen.E.Sullivan@disney.com>; Michelle Gajewski <mgajewski@kpmanalytics.com>; Dan Evans <dan.evans@kpmanalytics.com>
Subject: RE: Checking in

Hello Katie,

I was wondering how mid-October is looking for you for PM service on your SpectraStar. Wednesday, October 21 is presently open for me. Wednesday, October 14 is a little uncertain at the moment, because I have to facilitate shipment of a repaired unit that week, and the details are not worked out just yet. Keeping it on hold is OK too of course. Please let me know how things look on your end, and I will try to accommodate whatever works out best for you.

Thanks,

Arnold Eilert, Ph.D.
Technical Application Specialist
Office: +1 847.487.4237
Mobile: +1 847.757.8510



From: Sullivan, Kathleen E. <Kathleen.E.Sullivan@disney.com>
Sent: Thursday, September 3, 2020 5:43 PM
To: Arnold Eilert <aeilert@kpmanalytics.com>; Michelle Gajewski <mgajewski@kpmanalytics.com>; Dan Evans <dan.evans@kpmanalytics.com>
Subject: Re: Checking in

Hi Arnold! Can we possibly delay until October? Apologies!!

Again, a Wednesday would be best! Likely mid October?

Thanks for checking in- I had lost track of this!

Cheers,
Katie

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From: Arnold Eilert <aeilert@kpmanalytics.com>
Sent: Thursday, September 3, 2020 4:28:28 PM
To: Sullivan, Kathleen E. <Kathleen.E.Sullivan@disney.com>; Michelle Gajewski <mgajewski@kpmanalytics.com>; Dan Evans <dan.evans@kpmanalytics.com>
Subject: RE: Checking in

Hello Katie,

September 16 is coming up, and I am wondering if that will still work out OK for you, for the PM service on your Unity SpectraStar unit? Can you please let me know if that will work on your end, and if so, I'll go ahead and plan my trip. If a different day would happen to work better, just let me know and I will try to accommodate.

Thanks,

Arnold Eilert, Ph.D.
Technical Application Specialist
Office: +1 847.487.4237
Mobile: +1 847.757.8510



From: Arnold Eilert

Sent: Friday, July 17, 2020 1:27 PM

To: Sullivan, Kathleen E. <Kathleen.E.Sullivan@disney.com>; Michelle Gajewski <mgajewski@kpmanalytics.com>; Dan Evans <dan.evans@kpmanalytics.com>

Subject: RE: Checking in

OK, I'll tentatively pick Wednesday, Sept 16th and put it on my calendar. I'll bring it up again later on when I'm working on my actual travel itinerary.

Thanks,

Arnold Eilert, Ph.D.

Technical Application Specialist

Office: +1 847.487.4237

Mobile: +1 847.757.8510



From: Sullivan, Kathleen E. <Kathleen.E.Sullivan@disney.com>

Sent: Friday, July 17, 2020 1:24 PM

To: Arnold Eilert <aeilert@kpmanalytics.com>; Michelle Gajewski <mgajewski@kpmanalytics.com>; Dan Evans <dan.evans@kpmanalytics.com>

Subject: Re: Checking in

Totally - mid september looking promisingly open. I would aim for a Wednesday please!

Thanks!

~Katie

From: Arnold Eilert <aeilert@kpmanalytics.com>

Sent: Friday, July 17, 2020 2:22 PM

To: Sullivan, Kathleen E. <Kathleen.E.Sullivan@disney.com>; Michelle Gajewski <mgajewski@kpmanalytics.com>; Dan Evans <dan.evans@kpmanalytics.com>

Subject: RE: Checking in

Hello Katie,

If postponing till September is still OK with you, it could be better. If there is a certain week that would work out best for you, please let me know I'd be happy to try to accommodate it.

Thanks,

Arnold Eilert, Ph.D.

Technical Application Specialist

Office: +1 847.487.4237

Mobile: +1 847.757.8510



From: Sullivan, Kathleen E. <Kathleen.E.Sullivan@disney.com>

Sent: Friday, July 17, 2020 12:44 PM

To: Arnold Eilert <aeilert@kpmanalytics.com>; Michelle Gajewski <mgajewski@kpmanalytics.com>; Dan Evans <dan.evans@kpmanalytics.com>

Subject: Re: Checking in

Hi Arnold,

If you want to put it off until like September - that is fine and I don't blame you for being hesitant to come to FL right now!!

Michelle - can I potentially have a quote to pay the next year's PM?

Thanks!

~Katie

From: Arnold Eilert <aeilert@kpmanalytics.com>

Sent: Friday, July 17, 2020 10:45 AM

To: Sullivan, Kathleen E. <Kathleen.E.Sullivan@disney.com>; Michelle Gajewski <mgajewski@kpmanalytics.com>; Dan Evans <dan.evans@kpmanalytics.com>

Subject: RE: Checking in

Hello Katie,

Michelle has informed me that you have a PM visit coming based your PM contract renewal in Aug 2019.

I've been doing some PM service visits, but they've been in driving distance thus far.

Let me check to see what's possible. I am thinking possibly about scheduling in early August. Are there any specific dates (or preferred weeks) that would work best for you?

Thanks,

Arnold Eilert, Ph.D.

Technical Application Specialist

Office: +1 847.487.4237

Mobile: +1 847.757.8510



From: Sullivan, Kathleen E. <Kathleen.E.Sullivan@disney.com>
Sent: Thursday, July 16, 2020 7:49 PM
To: Michelle Gajewski <mgajewski@kpmanalytics.com>; Dan Evans <dan.evans@kpmanalytics.com>; Arnold Eilert <aeilert@kpmanalytics.com>
Subject: Re: Checking in

Hi All!

We would like to see about a Unity maintenance check and renewal! I realize these are crazy times but would appreciate a quote and the potential for maintenance?

Thanks and I hope you are all well!

~Katie

From: Michelle Gajewski <mgajewski@unityscientific.com>
Sent: Monday, August 12, 2019 4:25 PM
To: Sullivan, Kathleen E. <Kathleen.E.Sullivan@disney.com>; Dan Evans <dan.evans@unityscientific.com>
Subject: RE: Checking in

Hi Katie

I've attached the updated quote. Please advise if you want us to invoice so you can generate the PO.

Thanks
Michelle

From: Sullivan, Kathleen E. <Kathleen.E.Sullivan@disney.com>
Sent: Monday, August 12, 2019 10:45 AM
To: Michelle Gajewski <mgajewski@unityscientific.com>; Dan Evans <dan.evans@unityscientific.com>
Subject: RE: Checking in

Hi Michelle,

Thanks! You can put it as August 1st if that's ok.

Cheers,
Katie

Kathleen Sullivan M.S., Ph.D.
Nutrition Lab Specialist - Disney's Animals, Science and Environment
Work: 407-938-2489; Kathleen.E.Sullivan@disney.com

From: Michelle Gajewski [<mailto:mgajewski@unityscientific.com>]
Sent: Monday, August 12, 2019 10:26 AM
To: Sullivan, Kathleen E. <Kathleen.E.Sullivan@disney.com>; Dan Evans <dan.evans@unityscientific.com>
Subject: RE: Checking in

Hi Katie

I am working on a new quote now. Do you want me to change the coverage dates or keep them starting July 2nd? Since we do your PM at the end of the contract year, it doesn't have a big impact either way for us. Just let me know when you want the start date to be.

Thanks
Michelle

From: Sullivan, Kathleen E. <Kathleen.E.Sullivan@disney.com>
Sent: Friday, August 9, 2019 2:02 PM
To: Dan Evans <dan.evans@unityscientific.com>
Cc: Michelle Gajewski <mgajewski@unityscientific.com>
Subject: RE: Checking in

Hi Dan and Michelle,

Thanks much. Previously we paid \$2800 in 2018, and we had put in for a max ~10% increase, so we can do \$3100 for the 2019-2020 PM year and get that paid. I can forward last year's invoice if needed.

Cheers,
Katie

Kathleen Sullivan M.S., Ph.D.
Nutrition Lab Specialist - Disney's Animals, Science and Environment
Work: 407-938-2489; Kathleen.E.Sullivan@disney.com

From: Dan Evans [<mailto:dan.evans@unityscientific.com>]
Sent: Friday, August 09, 2019 12:25 PM
To: Sullivan, Kathleen E. <Kathleen.E.Sullivan@disney.com>
Cc: Michelle Gajewski <mgajewski@unityscientific.com>
Subject: RE: Checking in

Hi Katie,

I spoke to our manager and he said we could make an exception for you this year. I cannot remember your budget but can you send it to Michelle and I and she will send you the official quote?

Sorry for the delay. Thank you for following up.

Dan

Dan Evans
North America Sales Manager

Mobile: (203) 841-8055



a KPM Analytics company



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From: Sullivan, Kathleen E. <Kathleen.E.Sullivan@disney.com>

Sent: Friday, August 9, 2019 11:50 AM

To: Dan Evans <dan.evans@unityscientific.com>

Cc: Michelle Gajewski <mgajewski@unityscientific.com>

Subject: Checking in

Hi Dan,

I wanted to check in, as I never heard a response on your inquiry regarding the unreasonable price hike for the quote on the warrantee on our NIRS? Were you able to bring it down slightly, as we would like to continue using your services if possible?

Thanks,
Katie

Kathleen Sullivan M.S., Ph.D.
Nutrition Lab Specialist - Disney's Animals, Science and Environment
Work: 407-938-2489; Kathleen.E.Sullivan@disney.com

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